

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA

v.

JACQUES ROY, ET AL.

CRIMINAL NO. 3:12-CR-54-L

GOVERNMENT'S PROPOSED VOIR DIRE

Pursuant to the Court's Order dated December 10, 2015 (Dkt. No. 616), the government hereby files its proposed voir dire questions.

The government believes that if the Court utilizes the proposed juror questionnaire submitted by the parties on February 8, 2016, then far fewer questions will need to be asked of the entire panel than would otherwise be the case. Instead, a focused questioning of individual jurors, based on their responses to the questionnaire would be appropriate. As such, the government has proposed fewer general voir dire questions in the instant filing than it normally proposes.

To the extent that the Court does not utilize the proposed juror questionnaire submitted by the parties, then the government would request that the Court ask, in voir dire, those same questions that were omitted from the juror questionnaire.

As such, pursuant to Fed. R. Crim. P. 24(a)(2)(B), the government requests that the Court ask the jury panel the following questions, in addition to the juror questionnaire and any other questions the Court may ask:

1. Please raise your hand if you feel that a defendant cannot receive a fair trial

in our judicial system. What are your thoughts on that subject?

2. Just as the defendants are entitled to a fair trial, so is the government. Is there anyone of you because of something in your background or beliefs, something you seen or heard on television or radio, or have read in the newspapers, who feel like you cannot give the government the same fair trial in this type of case that you will give the defendants?

3. Please raise your hand if you know of the defendants in this case; their attorneys; United States Attorney John R. Parker; Assistant United States Attorneys P.J. Meitl, Nicole Dana, and Chad Meacham; or any of the participants or witnesses in this trial. (Please have government and defense attorneys read witness lists). Would your knowledge of those persons likely affect your consideration of this case? How?

4. At the conclusion of the case, jurors will have to make their decisions based on the law, which I will give to the jury in my instructions, even if the jurors disagree with the law. Please raise your hand if you believe you might not be able to follow laws you disagree with. What are your thoughts on that subject?

5. The law provides that the government must prove the guilt of each of the defendants beyond a reasonable doubt. Please raise your hand if you think that government's burden of proof should be higher, such as beyond a shadow of a doubt, or beyond any doubt. What are your thoughts on that subject?

6. Please raise your hand if you believe that law enforcement officers or government agents are less honest or trustworthy than other people. What are your thoughts on that subject?

7. Each of the defendants are charged in Count One of the Superseding Indictment with Conspiracy to Commit Healthcare Fraud. You will get more detailed instructions at the close of the case, but understand that a “conspiracy” is an agreement between two or more persons to join together to accomplish some unlawful purpose. It is a kind of “partnership in crime” in which each member becomes the agent of every other member. One may become a member of a conspiracy without knowing all the details of the unlawful scheme or the identities of all the other alleged conspirators. Does the fact that a person can be considered part of a conspiracy without knowing all the details or all the people involved in the conspiracy concern any of you?

8. If a defendant understands the unlawful nature of a plan or scheme and knowingly and intentionally joins in that plan or scheme on one occasion, that is sufficient to convict him or her for conspiracy even though the defendant had not participated before and even though the defendant played only a minor part. Are any of you uncomfortable with the law which states that a person who plays a minor role or comes into a conspiracy near the end of it may still be guilty of the conspiracy?

9. The government need not prove that the alleged conspirators entered into any formal agreement, nor that they directly stated between themselves all the details of the scheme. Is anyone uncomfortable that the government does not have to prove a formal agreement?

10. The government need not prove that all of the persons alleged to have been members of the conspiracy were such, or that the alleged conspirators actually succeeded in accomplishing their unlawful objectives. Do any of you have any concerns that the

government is not required to prove each person who is a member of a conspiracy or whether they achieved the goal of the conspiracy?

11. Would any of you require the government to prove beyond a reasonable doubt: (a) all the details of the conspiracy; (b) all the people involved in the conspiracy; or (c) that there was a formal agreement as part of the conspiracy?

12. Most of the events that you are going to hear about in this trial took place between 2004 and 2011. Please raise your hand if that would impact your view of the case? *What are your thoughts on that?*

13. Please raise your hand if you would be reluctant to find a defendant guilty of fraud where you believed the victim – in this case the Medicare and Medicaid systems – could have done more to protect themselves.

14. A jury in a criminal trial must determine the facts by considering only the evidence presented during the trial. Evidence includes the sworn testimony of witnesses and exhibits which have been admitted into evidence. Statements, objections, questions, and the arguments made by lawyers are not evidence. The function of lawyers in a trial is to point out things they feel are significant or to call your attention to certain facts or inferences from the evidence. In the same manner, the statements, objections, questions, or arguments made by a defendant in the process of representing himself are not evidence. Please raise your hand if you doubt that you could base your verdict on the admitted evidence and not the unsworn statements, objections, questions, or arguments made by the lawyers for the government or by the Defendants.

15. Please raise your hand if you believe that particular federal laws in the

United States should not be enforced. As best you can describe them, what laws do you have in mind? Why do you feel they should not be enforced?

16. Please raise your hand if you believe that federal criminal laws in the United States are too strict, or that there are too many federal crimes. How would those feelings affect your ability to decide this case?

17. If you find, after considering the evidence and the law you must apply, that the defendant is guilty, determining punishment will be my duty alone. The law does not permit you to consider punishment, sympathy, prejudice, or public opinion in reaching your verdict. Please raise your hand if you feel that concerns about punishment or feelings of sympathy for the defendant might influence you in deciding the guilt or innocence of the defendant. What are your thoughts on that subject?

18. Please raise your hand if you feel that you might be influenced, in deciding guilt or innocence in this case, by factors, apart from the law and the evidence, that I have not specifically mentioned in any of my previous questions. What factors?

Respectfully submitted,

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/s/ P.J. Meitl

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CERTIFICATE OF SERVICE

On February 15, 2016, I electronically submitted the following document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Criminal Procedure 49(b).

s/ P.J. Meitl

P.J. Meitl

Assistant United States Attorney